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SENATE BILL 100

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO CONDEMNATION PROCEEDINGS; PROVIDING LITIGATION  
EXPENSES FOR CERTAIN SUCCESSFUL CONDEMNEDS IN EMINENT DOMAIN  
LITIGATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 42A-1-25 NMSA 1978 (being Laws 1981,  
Chapter 125, Section 21) is amended to read:

"42A-1-25. LITIGATION EXPENSES.--

A. The court shall award the condemnee [~~his~~]  
litigation expenses whenever:

(1) the condemnor has abandoned the  
condemnation proceeding;

(2) the condemnation proceeding has been  
dismissed for any reason except when a bona fide settlement has  
been reached; [~~or~~]

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(3) there is a final determination that the  
condemnor does not have a right to take the property sought to  
be acquired in the condemnation proceeding; or

(4) judgment of just compensation is more than  
one hundred twenty-five percent of the amount offered pursuant  
to Paragraph (8) of Subsection B of Section 42A-1-17 NMSA 1978  
as compensation for any tract.

B. Before awarding litigation expenses pursuant to  
this section, the court shall review the reasonableness of such  
expenses and fees."